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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

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BEVERLY STAYART,
an individual,

Plaintiff,

v.

YAHOO!, INC., a Delaware
corporation;

OVERTURE SERVICES, INC., d/b/a
ALTA VISTA, a Delaware
corporation; and

VARIOUS, INC., d/b/a
FRIENDFINDER.COM, a California
corporation,

Defendants.

Case No.

09-C-0116

COMPLAINT: JURY DEMAND

NATURE OF CLAIMS

1. This is an action for false designation of origin and false endorsement pursuant to Section 43 of the federal Lanham Act, 15 U.S.C. Sec. 1125, and violation of statutory and common law rights of privacy under Wisconsin law. This action is brought against Yahoo! Inc., Overture Services, Inc., and Various, Inc., for their knowing and intentional unauthorized use of Bev Stayart's name on the Internet.

THE PARTIES

2. Beverly Stayart (hereinafter "Plaintiff" or "Bev Stayart") is an individual residing in the City of Elkhorn, County of Walworth, within this judicial district.

3. Yahoo! Inc. (hereinafter "Yahoo") is a Delaware corporation with its principal place of business at 701 First Avenue in Sunnyvale, California 94089.

4. Overture Services, Inc. (hereinafter "Overture") was a Delaware corporation with its principal place of business at 74 North Pasadena Avenue, 3rd Floor, Pasadena, California 91103. On information and belief, Overture was merged into Yahoo as of October 1, 2008, and no longer exists as a separate legal entity. At all times relevant to this litigation, Overture was a wholly-owned subsidiary of Yahoo, and fully participated in Yahoo's practices and conduct of business that are the subject of this action.

5. Various, Inc. (hereinafter "Various") is a California corporation with its principal place of business at 415 Sherman Avenue, Suite C, Palo Alto, California 94306.

JURISDICTION AND VENUE

6. This Court has original jurisdiction over this action pursuant to 15 U.S.C. Sec. 1121 (Lanham Act) and 28 U.S.C. 1331 (federal question). This Court has supplemental jurisdiction over the Wisconsin state law claims pursuant to 28 U.S.C. Sec. 1367(a) because these claims are so related to the federal question claims brought herein as to form part of the same case or controversy.

7. Defendants are subject to personal jurisdiction in the State of Wisconsin pursuant to the Wisconsin long-arm statute, Wis. Stats. 801.05, because, on information and belief, Defendants practice the unlawful conduct complained of herein, in part, within this judicial district; because the unlawful conduct complained of herein causes injury, in part, within this judicial district; because Defendants regularly do or solicit business within this judicial district; and because Defendants regularly and systematically direct

electronic activity into the State of Wisconsin with the intent of engaging in business within this judicial district, including the creation, hosting, and offering of fully interactive websites, advertising, and other Internet-related services and functions to users of the worldwide web within this judicial district, as well as entry into contracts with residents of this judicial district.

8. Venue is proper within this judicial district under 28 U.S.C. Sec. 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district.

BACKGROUND AND GENERAL ALLEGATIONS

Bev Stayart's Name and Image

9. Bev Stayart holds a Bachelor's Degree from the University of Iowa. She also holds a Master's Degree in Business Administration (M.B.A.) from the University of Chicago.

10. Prior to May, 2000, Bev Stayart lived in Chicago, Illinois, for many years.

11. Bev Stayart has been employed by several major financial institutions in Chicago, Illinois, attaining the position of Vice President. In graduate school at the University of Chicago, she majored in finance.

12. Bev Stayart is frequently involved in animal protection programs throughout the world, as well as genealogy research throughout the world.

13. Bev Stayart has actively participated in recent campaigns to save the wild horse population in the United States; to save the baby seal population in eastern Canada; and to prohibit the aerial shooting of wolves in the United States.

14. Bev Stayart regularly uses the Internet in support of her animal protection activities and genealogy research.

15. For example, Bev Stayart contributes to an online discussion forum for research and genealogical data concerning the Siouan people (Saponi) at www.saponitown.com. This third-party website contains Bev Stayart's photo, address, and other personal information.

16. Bev Stayart's periodic, scholarly posts on this third-party website have generated almost 17,000 "hits" during the past three years.

17. Similarly, two poems written by Bev Stayart appear on two Danish websites supporting the preservation of the baby seal population in eastern Canada.

18. Bev Stayart is a sophisticated, well-educated, and highly intelligent professional woman, with important and valuable friends and business contacts throughout the world.

19. On information and belief, Plaintiff is the only "Beverly Stayart" and "Bev Stayart" on the Internet. She uses both names.

20. Plaintiff in no way has ever engaged in a promiscuous lifestyle, or other overt sexual activities, which she and a large portion of her community and social circle consider perverse and abhorrent.

21. The name "Bev Stayart" has commercial value because of her humanitarian endeavors, positive and wholesome image, and the popularity of her scholarly posts on the Internet.

22. Plaintiff has never given the Defendants, or any third party, any permission, authority, or license to use or sell the right to use the name “Bev Stayart” for the promotion of any goods or services on the Internet, or in any other media, either directly or indirectly.

Defendants’ Internet Activities

23. The Internet is a global network of millions of interconnected computers. The worldwide web is a part of the Internet especially well-suited to displaying images and sound, as well as text. Much of the information on the worldwide web is stored in the form of web pages, which can be accessed through a computer connected to the Internet (available through commercial Internet service providers), and viewed using a computer program known as a “browser.” Websites are locations on the worldwide web containing a collection of web pages. Web pages are computer data files written in Hypertext Markup Language (“HTML”) containing text, pictures, sounds, audio and video recordings.

24. Yahoo provides Internet functions and services to individuals and companies, with more than 500 million users worldwide, according to its own published information. Among other services, Yahoo provides a commercial search engine, or directory, at its main interactive website, www.yahoo.com. On information and belief, Yahoo! Search is the second largest search engine on the Internet.

25. Overture also provides a commercial search engine at its main interactive website, www.altavista.com. On information and belief, Overture presently does business as Yahoo! Search Marketing.

26. Yahoo and its affiliates, such as Overture, provide Internet functions and services to all fifty states within the United States, including Wisconsin. For example, Yahoo offers DSL (digital subscriber line) Internet service to homes and small businesses in many Wisconsin communities in conjunction with AT&T. On information and belief, Yahoo has multiple thousands of users in Wisconsin alone.

27. On information and belief, most of Yahoo's online content and services are provided for free. Yahoo and its affiliates profit from these free services primarily through the sale of advertising that appears along with these free services.¹

28. Commercial search engines, such as those established by Yahoo and Overture, allow someone to find websites on the Internet that contain categories of information, or to look for key words, including websites offering products or services. Many companies have websites or web pages to offer product information and sell products and services online.

29. A search engine, such as those established by Yahoo and Overture, supposedly checks the search terms entered into it against its databases, and applies a formula or algorithm to produce search result page(s) that may relate to the customer's search terms. It also provides links to those websites.

30. On information and belief, among other kinds of searches, Yahoo and Overture encourage consumers to use their websites to find other websites that offer particular products and services.

¹ Internet advertising generated \$16.8 billion in revenue in 2006, an increase of 34% from the prior year. In Brief: Online Ad Revenue Sets Record for a Third Year, WALL ST. J., Mar 8, 2007, at B4.

31. A search result list generated by a search engine will usually contain three pieces of information in response to a search: the page title; the URL (Universal Resource Locator), a numerical address, like a phone number, identifying the resource on the Internet; and a summary of the page in the form of a “snippet” or “snippets,” with a link to the page on the web from which the “snippet” language is taken. To view a particular search result, the user merely has to “click” the link given to that search result.

32. Each web page is identified by a unique Uniform Resource Locator (URL). Web pages are stored on websites which are locations on the worldwide web comprising one or more computers, known as servers. Every website has a home page, which is identified by a URL, and is the first document users see when they connect to that website. Also associated with each website is a domain name of the URL. *See, Resonate Inc. v. Alteon Websystems, Inc.*, 338 F. 3d 1360, 1361-62 (Fed. Cir. 2003).

33. Domain names consist of a second level domain -- simply a term or series of terms (*e.g.*, eastside video) -- followed by a top-level domain, which usually describes the type of enterprise. Top-level domains include “.org” (non-profit and miscellaneous organizations), “.com” (commercial), “.edu” (educational), “.gov” (government), “.net” (networking provider) and “.mil” (military). *See, Panavision Int’l L. P. v. Toeppen*, 141 F. 3d 1316, 1318 (9th Cir. 1998). Commercial entities generally use the “.com” top-level domain.

34. Yahoo’s and Overture’s search engines are available not only through their own websites, but also through other popular websites that use their search engines, including www.abc.com, www.cnn.com, and www.sportsillustrated.com.

35. To use these search engines, a user types in a few descriptive words and presses the “enter” key (or can click on Yahoo’s or Overture’s “web search” button with the computer mouse), and receive a list of web pages identified by them as relevant to the search request.

36. These descriptive words may be any search terms that the user believes may assist him in retrieving the information sought, from a proper name such as “Anton Dvorak,” a generic term such as “squirrel,” or a trademark such as “Coca-Cola®.” *See, GEICO v. Google, Inc.*, 330 F. Supp. 2d 700, 701-02 (E.D. Va. 2004).

37. The search result list provided by Yahoo and Overture includes the web page title, as well as a summary of the web page text, with the search terms in bold, in the form of a “snippet” or “snippets.” The title page, along with the snippet summary, gives the user an idea of whether the particular web page will be relevant.

38. The search result also includes a “link” (an embedded electronic address) to the page on the web from which the “snippet” language is found. To view a particular search result, the user simply “clicks” the computer mouse on that “link” given by Yahoo or Overture to the search result.

39. A user will typically click the “link” associated with the snippet summary which best matches his search criteria.

40. Linking allows a user to connect from one website on the Internet to another by simply “clicking” on a designated space on the initial site (“hyperlink”) using the computer mouse. The user is then connected to the other website. *See, Bensusan*

Restaurant Corp. v. King, 973 F. Supp. 295, 298 n. 2 (S.D.N.Y. 1996), *aff'd* 126 F. 3d 25 (2nd Cir. 1997).

41. Linking permits users to move quickly on the Internet without repeatedly having to type in website addresses or search terms. The ability to “link” from one computer to another, from one document to another across the Internet, regardless of its status or physical location, is what makes the worldwide web unique. *See, American Civil Liberties Union v. Reno*, 31 F. Supp. 2d 473, 483 (E.D. Pa. 1999).

42. However, irresponsible linking raises various legal issues. For example, a “link” may be considered a form of intellectual property misappropriation or unfair competition if it suggests a non-existent affiliation between businesses. It may also violate a copyright owner’s right to create derivative works, undercut an author’s right to proper attribution, and constitute trademark infringement and/or trademark dilution.

43. Commercial search engines, such as those provided by Yahoo and Overture, have become the primary method of indexing materials on the worldwide web. More often, users do not know the exact domain address of a website and must rely on a search engine to look for key words and phrases associated with a desired web page, at least when accessing the web page for the first time. *Reno v. ACLU*, 521 U.S. 844, 852 (1997).

44. According to Yahoo, it strives to provide the “best” search experience on the worldwide web by directing users to “high-quality” and “relevant” web content in response to a search query. What Yahoo considers unwanted are:

- (a) Pages that harm accuracy, diversity or relevance of search

results;

- (b) Pages dedicated to directing the user to another page (doorway pages);
- (c) Misuse or inaccurate use of competitor or brand names [emphasis added];
- (d) Sites that use excessive pop-ups, install malware (*i.e.*, spyware, viruses, trojans) or interfering with user navigation; and
- (e) Pages that seem deceptive, fraudulent, or provide a poor user experience.

See, Exhibit A.

45. Sexually explicit material appears on the Internet. Such material includes text, pictures, audio and video images, ranging from the modestly titillating to hard-core pornography.

46. Various owns approximately 25 “web communities” according to its own published information, where “over 100 million registered members” meet each other through computer “personals.”

47. These include non-sexual networks, such as www.friendfinder.com, www.jewishfriendfinder.com, www.germanfriendfinder.com, www.italianfriendfinder.com, and www.seniorfriendfinder.com, as well as explicit sexual sites. According to public reports, FriendFinder and Various generate more than \$150 million in profits per year.

48. Bev Stayart is not now, and has never been, a member of any of Various, Inc.'s web communities or social networks.

49. Through its AdultFriendFinder service mark, Various markets and sells on-line adult-oriented social networking services to individuals, including what it advertises as "the world's largest adult social personals with over 20,000,000 members."

50. On Various' AdultFriendFinder interactive website, AdultFriendFinder.com, individuals can purchase a monthly membership and access other members' sexually-oriented personal profiles and photographs. Other "services" promoted include sex chat, nude webcams and group sex.

51. On information and belief, AdultFriendFinder has over a quarter-million users in Wisconsin alone. In January, 2009, AdultFriendFinder asserted it had over 262,000 Wisconsin members. *See*, Exhibit B.

52. Various regularly advertises and promotes AdultFriendFinder on the Internet with graphic images of fully or partially nude women who are exhibiting their breasts, buttocks and/or pubic areas in a sexually suggestive manner.

53. Various, directly or through its marketing affiliates, has also in the past used ad-service software, often referred to as "spyware" or "adware" that has been installed on individuals' computers, often without their knowledge or consent.

54. The term "spyware" refers to a broad class of unwanted software programs installed on users' computers, either with or without their consent, that take actions adverse to the users' interests. These actions include causing unwanted and annoying pop-up ads, stealing personal information from the user including passwords,

credit card numbers and bank account numbers, and slowing the user's computer. Many such programs earn revenues by showing advertising, especially pop-up ads.

55. On information and belief, a typical advertisement on the Internet for www.adultfriendfinder.com will show photos of five nude or semi-nude women promoting AdultFriendFinder, who live in the user's geographical area, and are seeking to meet other members, using such nicknames as "missydoou," "SlurpBabeSlurp," and "Sweetestladyevr."

56. Thus, a user accessing a computer near Madison, Wisconsin, may suddenly encounter a bold-faced heading "Meet AdultFriendFinder members near Madison -- Over 20 Million Members" atop five photos of nude or semi-nude women promoting AdultFriendFinder, with their age, nickname and city listed.

Plaintiff's Recent Internet Activities

57. Plaintiff has recently performed web searches on the Internet using "Bev Stayart" as a search term on various commercial search engines.

58. Examples of her web searches are listed as Exhibits C through X and Exhibits HH through MM of the Complaint.

Yahoo's Wrongful Use of Bev Stayart's Name

59. On September 9, 2008, Bev Stayart visited Yahoo's search engine (www.yahoo.com) from a computer in Walworth County, Wisconsin, and used the keywords "Bev Stayart" to search for any information about her on the Internet.²

² Because names on the Internet are not case-sensitive, names that contain capital letters are functionally the same as those that do not.

60. One of the results found on Yahoo's search engine (*see*, Exhibit C) stated:

Pm 10 kb Loading Cialis -- Online Pharmacy

Pm 10kb loading cialis January th, at: pm hi friends i met you
in the tim horton s on bloor st a few Sundays ago I . . . on february
bev stayart on march th . . .
chitosan-as-a-pharmaceutical-excipient.pills-n-health.cn/. . .

61. Of the seven search engine results displayed on www.yahoo.com for Bev Stayart on September 9, 2008, only one, the Pm 10kb Loading Cialis -- Online Pharmacy, is a fraudulent and illegitimate website. The other six websites listed on the September 9, 2008 www.yahoo.com search engine results all correctly refer to Plaintiff, and were recognizable to her. *See*, Exhibit C.

62. When Bev Stayart visited the www.yahoo.com search engine and entered the keywords "Bev Stayart" on September 9, 2008, she then clicked the search engine result Pm 10kb Loading Cialis -- Online Pharmacy. When she did so, her name "Bev Stayart" appeared on the website, centered at the top of a darkened movie screen. The website was www.mysharedvideo.com. The video screen repeatedly flashed "Connecting!" and the words "Watch Free Movie!" appeared in the upper-left-hand corner. *See*, Exhibit D.

63. The website also advised to load a specific type of software to watch the movie, which Bev Stayart did not have.

64. The Norton Internet Security system installed on the computer warned "Malware Threat" and a chart appeared tabulating the amount of spyware attacking the computer and its severity, from moderate to extremely critical. These spyware attacks were enumerated on the computer screen in the multiple hundreds. On information and

belief, this spyware may be designed to illegally obtain a user's computer password and other other personal, financial information, including credit card and bank account numbers.

65. On information and belief, the movie shows a completely naked woman, wearing only fishnet stockings, massaging her breasts. This woman eventually walks through a door into another room. Attached is the source code for this website www.mysharedvideo.com.³ Only Plaintiff's name "Bev Stayart" is shown as the title of this document. None of Yahoo's snippet language appears on this source code. *See*, Exhibit E.

66. On September 10, 2008, Bev Stayart again used a computer in Walworth County and searched for her name on www.yahoo.com. The same result, Pm 10kb Loading Cialis -- Online Pharmacy appeared. When she clicked this link, the same darkened movie screen with her name "Bev Stayart" centered at the top appeared. This time, the website on which the movie played was www.gothotvidtosee.com. Her computer lacked the appropriate software, and she was again unable to play the movie, but another link then displayed the caption "Free Streaming Porn HOTTEST DAILY PORN" and 27 hard-core pornographic photos of naked women with their pubic areas exposed and masturbating, appeared. None of the women in the photos are Plaintiff. *See*, Exhibit F.

³ The "source code" is the HTML code that underlies a web page. To view a web page as source code means to view the HTML code itself rather than the display that results from it. Downing, *et al.*, Dictionary of Computer and Internet Terms, (Barrons, 9th ed. 2006): "source code"

67. On the same date, September 10, 2008, Bev Stayart then clicked the domain name <http://chitosan-as-a-pharmaceutical-excipient.pills-n-health.cn> which appears below the snippet language on the same [Pm 10kb Loading Cialis -- Online Pharmacy](#) result on www.yahoo.com. This time, she entered the website <http://chitosan-as-a-pharmaceutical-excipient.pills-n-health.cn>. The only words which appeared on this website were “under construction” in the upper-left-hand corner. *See*, Exhibit G.

68. On September 11, 2008, Bev Stayart searched www.yahoo.com with the keywords “Bev Stayart” from a computer in Walworth County. The same result, [Pm 10kb Loading Cialis -- Online Pharmacy](#), appeared. When she clicked this link, the website www.videosfreefresh.com appeared. The same darkened movie screen with her name “Bev Stayart” centered at the top and the invitation to “Play Free Movie!” appeared. Again, she was unable to play the movie because she lacked the appropriate software. But the same caption and the 27 hard-core pornographic photos referenced in Paragraph 66 above also appeared. The source code for this website www.videosfreefresh.com is attached. Only Plaintiff’s name “Bev Stayart” is shown as the title of this document. None of Yahoo’s snippet language appears on this source code. *See*, Exhibit H.

69. On September 29, 2008, Bev Stayart searched www.yahoo.com with the keywords “Bev Stayart” from a computer in Walworth County. The [Pm 10kb Loading Cialis -- Online Pharmacy](#) search result again appeared on Yahoo’s search engine. When she clicked the link, she entered the website www.freeprivatetube.com. The same darkened movie screen with her name “Bev Stayart” centered at the top appeared. The screen repeatedly flashed “Connecting!” The same instructions to load the appropriate

software to watch the free movie appeared. Bev Stayart did not have the appropriate software, so was unable to view the movie. The source code for the website www.freeprivatetube.com is attached. Only Plaintiff's name "Bev Stayart" is shown as the title of this document. None of Yahoo's snippet language appears on this source code. *See*, Exhibit I.

70. On October 4, 2008, Bev Stayart searched www.yahoo.com using the keywords "Bev Stayart" from a computer in Walworth County. The same Pm 10kb Loading Cialis -- Online Pharmacy result appeared. When Bev Stayart clicked this link, her computer was forwarded to the website www.videofreeforonline.com. The darkened movie screen with her name "Bev Stayart" appeared, with the word "Connecting" and the words "Play Free Movie!" appeared. Again, she was unable to play the movie, lacking the appropriate software on this computer. But the same caption and the 27 hard-core pornography photos referenced in Paragraph 66 above also appeared. Only Plaintiff's name "Bev Stayart" is shown as the title of this document. None of Yahoo's snippet language appears on this source code. *See*, Exhibit J.

71. Because Bev Stayart had discovered that her name was falsely associated with both a male sexual dysfunction drug and an online pharmacy on both Yahoo and Alta Vista, she decided to search for her name in conjunction with the three most common of these drugs, Cialis®, Viagra® and Levitra® to see what results she obtained, if any. Therefore, on October 6, 2008, Bev Stayart searched www.yahoo.com, using the keywords "Bev Stayart Levitra." She obtained the same result, Pm 10kb Loading Cialis - Online Pharmacy. This time she clicked the link <http://chitosan-as-a-pharmaceutical->

excipient.pills-n-health.cn appearing directly under the snippet language on this search engine result. She then found references to her and the promotion of Levitra®, including “2. TOP bev stayart levitra for YOU”, “13. Bev stayart levitra Info -- Get info on bev stayart levitra from 14 search engines in 1”, “17. Bev Stayart Levitra -- Looking for Bev Stayart Levitra?” and “18. Bev Stayart Levitra Find the Best Deals -- Compare Prices on Bev Stayart Levitra and More.” These listings included separate links to additional websites, including the pharmacy http://www.pharmacy-on-duty.com. See, Exhibit K.

72. On October 8, 2008, Bev Stayart also searched www.yahoo.com using the keywords “Bev Stayart” from a computer in Walworth County. The same Pm 10kb Loading Cialis -- Online Pharmacy result appeared. When Bev Stayart clicked this link, she went into the website www.myprivatetube.com. The same darkened movie screen with her name “Bev Stayart” centered at the top appeared, with the word “Connecting” flashing in the lower-left-hand corner of the screen. The words “Play Free Movie” appeared in the in the upper-left-hand corner, but lacking the appropriate software, she was unable to play the movie. The source code for the website www.myprivatetube.com is attached. Only Plaintiff’s name “Bev Stayart” is shown as the title of this document. None of Yahoo’s snippet language appears on this source code. See, Exhibit L.

73. On October 22, 2008, Plaintiff searched for her name using the keywords “Bev Stayart” on www.yahoo.com. One of the search results was Pm 10kb Loading Cialis -- Online Pharmacy. When Plaintiff clicked this link, she entered the website www.videofreeforonline.com. The same darkened movie screen with her name “Bev Stayart” centered at the top appeared. The word “Connecting” flashed in the lower-

left-hand corner of the screen and the words “Watch Free Movie” appeared. Again, she was unable to play the movie, lacking the appropriate software. Attached is the source code for the website www.videofreeforonline.com. Only Plaintiff’s name “Bev Stayart” is shown as the title of this document. None of Yahoo’s snippet language appears on this source code. *See*, Exhibit M.

74. On October 23, 2008, Plaintiff searched for her name “Bev Stayart” on www.yahoo.com. The Pm 10kb Loading Cialis -- Online Pharmacy result again appeared. When Plaintiff clicked this link, her computer was linked to the website www.videofreeforonline.com. The same darkened movie screen with her name centered at the top appeared. The screen repeatedly flashed “Connecting!” and the words “Watch Free Movie” appeared in the upper-left-hand corner. Her computer lacked the appropriate software, and she was again unable to play the movie. But the same 27 hardcore pornographic photos referenced in Paragraph 66 above appeared. Attached is the source code for the website www.videofreeforonline.com. Only Plaintiff’s name “Bev Stayart” is shown as the title of this document. None of Yahoo’s snippet language appears on this source code. *See*, Exhibit N.

75. In her investigation, from September 9, 2008 through October 28, 2008, Plaintiff was able to find six separate websites wherein the Pm 10kb Loading Cialis -- Online Pharmacy search result was linked by Yahoo to pornography sites. These six websites are:

- (1) www.mysharedvideo.com
- (2) www.gothotvidtosee.com

- (3) www.videosfreefresh.com
- (4) www.videofreeforonline.com
- (5) www.myprivatetube.com
- (6) www.freeprivatetube.com

76. The “snippet” language on Yahoo’s search engine results bears absolutely no resemblance to any of the websites to which Yahoo refers the user. The only words that appear on these six websites are the name “Bev Stayart” at the top of a darkened movie screen. None of the language in the snippet under the title Pm 10kb Loading Cialis -- Online Pharmacy, published on the Internet as a Yahoo search engine “result,” can be found on any of these six website links.

77. Cialis® is a nationally advertised oral treatment for sexual dysfunction, marketed and distributed by Eli Lilly and Company of Indianapolis, Indiana.

78. On October 14, 2008, Bev Stayart visited Yahoo’s search engine from a computer in Walworth County, Wisconsin, using the keywords “Levitra Bev Stayart.” See, Exhibit O. The following search engine result appeared:

Pm 10kb Loading Cialis -- Online Pharmacy
. . . seal of approval posted on february bev stayart on march th pm
with k-dur medrol . . . Generic name for levitra cialis pictures results
generic viagra lowest . . .
chitosan-as-a-pharmaceutical-excipient.pills-n-health.cn/

79. On clicking the link Pm 10kb Loading Cialis -- Online Pharmacy, the words “Levitra Bev Stayart” appeared at the top of a darkened movie screen. The website www.videofreeforonline.com stated in the upper-left-hand corner, “Watch Free Movie!” However, Bev Stayart was unable to view this video because she lacked the appropriate

software on her computer. The source code for this website is attached. Only Plaintiff's name "Bev Stayart" is shown as the title of this document. None of Yahoo's snippet language appears on this source code. *See*, Exhibit O.

80. She then clicked the link chitosan-as-a-pharmaceutical-excipient.pills-n-health.cn/ which directed her to another website where she found an additional reference to her and levitra: "4. TOP levitra bev stayart for YOU." This website linked Plaintiff to the pharmacy <http://www.pharmacy-on-duty.com>. *See*, Exhibit P.

81. Levitra® is a nationally advertised oral treatment for sexual dysfunction, marketed and distributed by Schering Corporation of Kenilworth, New Jersey.

Overture's Wrongful Use of Bev Stayart's Name

82. On September 20, 2008, Bev Stayart visited Overture's main search engine at www.altavista.com from a computer in Walworth County, Wisconsin, and used the keywords "Bev Stayart Cialis" to search for any information about her on the Internet.

83. Bev Stayart found the same illegitimate search engine result on Overture's Alta Vista search engine on September 20, 2008, as she had first found on Yahoo's search engine www.yahoo.com on September 9, 2008. *See*, Exhibit Q. This result stated:

Pm 10kb Loading Cialis -- Online Pharmacy

Pm 10kb loading cialis January th, at: pm hi friends i
met you in the tim horton s on bloor st a few sundays
go i . . . on february **bev stayart** on march th . . .

Chitosan-as-a-pharmaceutical-excipient.pills-n-health.cn/pm-
10kb-loading-cialis.html

84. At the bottom of this search result, immediately below the snippet language, is listed the domain <http://chitosan-as-a-pharmaceutical-excipient.pills-n-health>, as shown. When she clicked this link, she found references to her and the promotion of Cialis®, including “[5. TOP bev stayart cialis for YOU](#)”, “[9. Cheapest Drugs on Net! Buy bev stayart cialis here!](#)” and “[10. Buy Cialis. Best Price! \\$1.00 per pill. Best Price. All information about Bev Stayart Cialis here.](#)” Each of these listings included a separate link to a different online pharmacy: <http://www.pharmacy-on-duty.com>, <http://pharmacymed.net> and <http://The-Canadian-Meds.com>. See, Exhibit R.

85. Note the “Related Searches” displayed by Overture, which are ads for Defendant AdultFriendFinder.com --- “Find hot women to f--k in Janesville [Wisconsin]” and “World’s largest sex and swinger personal community” [emphasis in original].⁴

86. Bev Stayart then used the keywords “Bev Stayart Viagra” on Overture’s Alta Vista search engine on September 20, 2008. When she clicked the referenced link, <http://chitosan-as-a-pharmaceutical-excipient.pills-n-health.cn>, she found references to her and Viagra®, including “[2. Bev stayart Viagra -- JUST Buy pills here!](#)”, “[8. Cheapest Drugs on Net! Buy bev stayart Viagra Here!](#)” “[17. Looking for Bev Stayart viagra?](#)” and “[18. Need Bev Stayart Viagra now? Get great Bev Stayart Viagra results here!](#)” The first item listed linked Plaintiff to the online pharmacy <http://www.pharmacy-on-duty.com> and the second item listed linked Plaintiff to the online pharmacy <http://pharmacymed.net>. See, Exhibit S.

⁴ Janesville, Wisconsin is a city located approximately 20 miles from Plaintiff’s residence.

87. Note the “Related Searches” displayed by Overture, which are ads for Defendant AdultFriendFinder.com -- “Find hot women to f--k in Janesville [Wisconsin]” and “World’s largest sex and swinger personal community” [emphasis in original].

88. Each of these listings included additional links to a different online pharmacy: <http://www.pharmacy-on-duty.com> <http://searchpharma.info> , and <http://pharmacymed.net>. See, Exhibit S.

89. Viagra® is a nationally advertised oral treatment for sexual dysfunction marketed and distributed by Pfizer, Inc. of New York City, New York.

90. On October 6, 2008, Bev Stayart visited Overture’s search engine from a computer in Walworth County, Wisconsin, and used the keywords “Bev Stayart Levitra” to search for any information about her on the Internet.

91. On Overture’s www.altavista.com search engine, she found a Pm 10kb Loading Cialis -- Online Pharmacy search result. She again clicked the domain name <http://chitosan-as-a-pharmaceutical-excipient.pills-n-health.cn> link. She then found references to her and Levitra®, including “2. TOP bev stayart levitra for YOU”, “13. Bev stayart levitra INFO -- get info on bev stayart levitra from 14 search engines in 1”, and “17. Bev Stayart Levitra and more.” Item #2 again linked Plaintiff to the online pharmacy <http://www.pharmacy-on-duty.com>. See, Exhibit T.

92. Note the “Related Searches” again displayed by Overture, which are ads for Defendant AdultFriendFinder.com -- “Find hot women to f--k in Janesville [Wisconsin] and “World’s largest sex and swinger personal community” [emphasis in original].

93. On October 6, 2008, Bev Stayart searched for her name on Overture's main search engine, www.altavista.com from a computer in Walworth County. The same [Pm 10kb Loading Cialis -- Online Pharmacy](#) result appeared as had appeared when she searched for her name on www.yahoo.com. When she clicked this link, she entered the website www.myprivatetube.net. The same darkened movie screen with her name centered at the top appeared, with the word "Connecting" flashing in the lower-left-hand corner of the screen. The words "Watch Free Movie" appeared in the upper-left-hand corner. She was instructed to load a certain kind of software to view this video, which she did not have so she was unable to play the movie. The source code for the website www.myprivatetube.com is attached. Only Plaintiff's name "Bev Stayart" is shown as the title of this document. None of Overture's snippet language appears on this source code. *See*, Exhibit U.

94. On October 28, 2008, Bev Stayart again searched for her name on www.altavista.com. She found the same search result, [Pm 10kb Loading Cialis -- Online Pharmacy](#). This time, when she clicked this link, she again entered the website of www.videofreeforonline.com. The identical movie screen with her name centered at the top appeared. The word "Connecting" flashed in the lower-left-hand corner of the video screen and the words "Watch Free Movie" appeared in the upper-left-hand corner. Again, lacking the appropriate software on her computer, she was unable to play this movie. But the same 27 hard-core pornographic still photos (Paragraph 66) appeared, as had appeared when she searched for her name on www.yahoo.com. The source code for the website www.videofreeforonline.com is attached. Only Plaintiff's name "Bev

Stayart” is shown as the title of this document. None of Overture’s snippet language appears on this source code. *See*, Exhibit V.

95. On September 24, 2008, Bev Stayart found another result on Overture’s Alta Vista search engine. The search engine result mentioned her and sexual dysfunction drugs. *See*, Exhibit W. The search engine result stated as follows:

I give it my Seal of approval! Nigel Barker.tv
I have always considered it extremely importat for people
To stand up . . . Bev Stayart on . . . Buy evista cialis viagra
levitra hydrocone pictures . . .
www.nigelbarker.tv/blog/2008/02/01/I-give-it-my-seal-of
approval

96. The language quoted above on Overture’s Alta Vista search engine does not match the actual post which Bev Stayart made on the Nigel Barker website on March 29, 2008.

97. On information and belief, Nigel Barker is a famous photographer and worldwide spokesperson for the Humane Society of the United States, based in Washington, D.C. (“HSUS”). The HSUS has been actively involved in a worldwide campaign to stop the annual slaughter of baby seals in eastern Canada. Bev Stayart has also been actively involved in this campaign. *See*, [www.nigelbarker.tv/2008/02/1/I-give-it-my-seal-of approval](http://www.nigelbarker.tv/2008/02/1/I-give-it-my-seal-of-approval).

98. Bev Stayart’s post on Nigel Barker’s blog actually states (*see*, Exhibit X):

Bev Stayart on March 29th, 2008 2:41 p.m.

The baby seals are very curious and friendly towards the sealers as the men approach, as any baby is towards someone new in his environment. This is what is so heartbreaking -- the seals’ misreading of the cruel intentions of the men. The

pain of their death is unimaginable as many are skinned alive. The sadism and cruelty of Canadians have affected me so deeply that I will never buy another Canadian product or set foot on Canadian soil.

Disregard of Bev Stayart's Rights

99. Bev Stayart promptly notified Yahoo by e-mails on September 9-10, 2008, that its search engine was generating illegitimate search results linking her to a sexual dysfunction drug, hard-core pornographic websites, and an on-line pharmacy promoting Cialis®. *See*, Exhibits Y and Z.

100. However, Yahoo totally refused to acknowledge its wrongful conduct or to take any action.

101. Yahoo replied to Plaintiff's Abuse Help Form on September 9, 2008, by stating, "Thank you for your submission." *See*, Exhibit AA.

102. Yahoo replied to Plaintiff's Privacy Help Form on September 10, 2008, by stating, "Thank you for your submission." *See*, Exhibit BB.

103. On September 10, 2008, Yahoo told Plaintiff in writing:

We have received your feedback and will be reviewing it shortly. Although we are unable to respond directly to your comments, please know that we read each and every one for use in future enhancements and to improve our service. We appreciate your input and interest . . . “.

See, Exhibit CC.

104. Bev Stayart was forced to retain a lawyer, who demanded that Yahoo's and Overture's illegitimate search results for "Bev Stayart" be immediately removed from their websites. *See*, Exhibits DD and EE.

105. Again, Yahoo and Overture Services refused to acknowledge their wrongful conduct or to take any action. Yahoo replied, in an e-mail, stating in part:

We do not aim to judge web content for appropriateness or censor materials that we find offensive or inappropriate. Instead, we present information as it is reflected on the Web, allowing you to draw your own informed conclusions about what you see.

See, Exhibit FF.

106. The conclusions which Yahoo and Overture obviously conveyed to users of the worldwide web, by their search results for “Bev Stayart,” is that she has an affiliation or connection with Cialis®; six pornographic websites; an online pharmacy selling Cialis®; and/or an online adult, sexually-oriented “dating” service.

107. It was not until November 21, 2008, that Yahoo made any effort whatsoever to remove the illegitimate search results for “Bev Stayart” from its search engine. *See*, Exhibit GG. This was more than ten weeks after Plaintiff first contacted Yahoo.

108. Illegitimate search results remain on Yahoo’s search engine as recently as February 2, 2009. Seven search results still mention Bev Stayart in connection with Cialis®, Viagra®, and Levitra®. *See* Yahoo’s search results “lexus-is.seko.infos.st/sitemap.sml”; “infstuff.w8w.pl/mazda8c6.html”; “florry.gbs.me/fordaa.html”; “2007-is300.seko.infos.st/sitemap.sml”; “christmas40d”; “jelobok.idoo.com/nursing7c7.html”; and “quicker.5webs.net/for7c0.html”. *See*, Exhibit HH.

109. The same search results appear on www.altavista.com on February 2, 2009. *See*, Exhibit II.

110. Thus, Yahoo's and Overture's search results for "Bev Stayart" continue to suggest an affiliation or connection between her and the sexual drugs Cialis®, Viagra®, and Levitra® to the present day, or almost five months from the date she first complained to Yahoo about its search engine results. This is a direct violation of Yahoo's Search Content Quality Guidelines. *See*, Exhibit A.

Various' Wrongful Use of Bev Stayart's Name

111. On December 5, 2008, Bev Stayart visited Yahoo's search engine (www.yahoo.com) from a computer in Walworth County, Wisconsin, and used the keywords "bev stayart" to search for any information about her on the Internet.

112. One of the search results found on Yahoo's search engine stated (*see*, Exhibit JJ):

[store place.007webs.com/freec6.html](http://store.place.007webs.com/freec6.html)
http://yorkie-puppies.doorway.orge.pl/dinosaur-main-titles-mp3.html . . . http://jewellery-makin.doorway.orge.pl/bev-stayart.html **bev stayart**
store place.007web.com/freec6.html -- 117k -- Cached

113. On December 5, 2008, Bev Stayart also visited Overture's main search engine at www.altavista.com from a computer in Walworth County, and used the keywords "Bev Stayart" to search for any information about her on the Internet.

114. One of the search results found on Overture's search engine (*see*, Exhibit KK) was virtually identical and stated:

store place.007webs.com/freec6.html
http://yorkie-puppies.doorway.orge.pl/dinosaur-main-titles-mp3.html . . . http://jewellery-makin-doorway.orge.pl/bev-stayart.html
bev stayart . . . storeplace.007.webs.com/free.c6.html
More pages from store place.007webs.com

115. Bev Stayart then typed the following URL in the browser:

http://jewellery.makin.doorway.orge.pl/bev-stayart.html

When she clicked this link, a website appeared titled “Meet AdultFriendFinder members near Janesville [Wisconsin] -- Over 20 Million Members” and containing five graphic images of fully or partially nude women who are exhibiting their breasts and buttocks in a sexually suggestive manner. *See*, Exhibit LL.

116. These photos are accompanied by the age, nickname and city of residence of the women. The URL http://jewellery-makin.doorway.orge.pl/bev-stayart.html at the bottom of the web page contains Plaintiff’s name, Bev Stayart. *See*, Exhibit LL.

117. The search results display nude photos of women, whose location is tailored to the user’s immediate vicinity, depending on the user’s location as reflected in his/her IP address (*e.g.*, a user in Chicago would see on his computer screen, along with the nude photos, “Find hot women to f--k in Chicago -- World’s largest sex and swinger personal community.”

118. This also applies internationally because AdultFriendFinder.com operates internationally, with international Internet viewers. *See*, Exhibit B, noting that “[o]ther languages” for AdultFriendFinder.com include Spanish, French, German, Portuguese, Italian, Chinese and Japanese.

119. Thus, on information and belief, a user in Paris, France, viewing these same search engine results at exactly the same time as Plaintiff would see, “Find hot women to f--k in Paris -- World’s largest sex and swinger community.”

Disregard of Bev Stayart’s Rights

120. The HTML “Source Code” for an individual web page can be accessed by first pressing “View” in the browser followed by “Source.” This shows the code and can be printed directly from the computer. When a user types the URL <http://jewellery.makin.doorway.orge.pl.bev-stayart.html> in his browser and is then linked to the website described in Exhibit MM, he enters the website <http://jewellery.makin.doorway.orge.pl.bev-stayart.html>. The URL is displayed clearly at the bottom of the web page. On the source code document for this web page, Plaintiff’s name “bev stayart” is centered at the top as the “title”. The name “adultfriendfinder” is also found in this same source code document. *See*, Exhibit MM.

121. Title tags are an extremely influential search engine ranking factor. *See*, Jones, Kristopher, Search Engine Optimization (Wiley Publishing, Inc., 2008) at 32. Title tags are descriptive about what a particular web page is about and compel visitors to visit that site. *Id.*

122. Title tags are the most important consideration in raising a search engine ranking for a particular keyword or phrase. *Id.*, at 36. Search engines use the text contained within a title tag as a primary factor to determine what the content of a web page is about. *Id.* The title tag is also the “link” text that typically appears on the search engine results page when a particular web page appears in the rankings. *Id.* Title tag text

also appears at the top of the web browser when someone is visiting a particular page on a website. *Id.*

123. The title tag, in this example “Bev Stayart”, is what the computer user first sees at the top of his browser window, as well as in the search results as the “link” to that web page.

124. The URL prints out at the bottom of the AdultFriendFinder.com website, clearly incorporating Bev Stayart’s name.

125. AdultFriendFinder.com has thus deliberately appropriated the name “Bev Stayart”, trading on her goodwill and positive name recognition, to draw users to its website, completely without her authorization or consent.

COUNT I

False Endorsement Under the Federal Lanham Act Against Defendant Yahoo

126. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

127. Plaintiff possesses the inherent right to control the use of her name with respect to commercial endorsement and right of publicity.

128. As discussed above, Yahoo knowingly used Plaintiff’s name “Bev Stayart” on a false snippet on its search engine by (1) repeatedly linking Plaintiff to the advertising of Cialis® by an online pharmacy; (2) repeatedly linking Plaintiff to six separate websites playing pornographic videos containing computer spy ware; and (3) repeatedly linking Plaintiff to a website captioned “Free Streaming Porn -- HOTTEST DAILY PORN” displaying 27 hard-core pornographic photos.

129. Yahoo's unauthorized use of Plaintiff's name in this manner constitutes a false endorsement and false designation of origin in violation of Section 43(a) of the federal Lanham Act.

130. Yahoo's unauthorized use of Plaintiff's name is false and misleading and tends to falsely describe and represent that the sale of Cialis® by an online pharmacy is licensed, sponsored, endorsed or otherwise authorized by Plaintiff.

131. Yahoo's unauthorized use of Plaintiff's name in this manner in a false snippet on its search engine results also represents by implication that Plaintiff endorses, sponsors or is otherwise affiliated with an online pharmacy selling Cialis®.

132. Yahoo's unauthorized use of Plaintiff's name is likely to cause confusion or mistake and to deceive consumers as to the endorsement, sponsorship, affiliation, connection or association of Bev Stayart with Cialis® and an online pharmacy selling this drug.

133. Yahoo has also used the name "Bev Stayart" in a false snippet on its search engine results, repeatedly linking her to six separate websites playing a pornographic movie falsely purporting to be her, without authorization or permission, all containing critical level spyware meant to steal computer passwords, credit card and bank account numbers.

134. Yahoo's unauthorized use of Plaintiff's name in this manner constitutes a false endorsement and false designation of origin in violation of Section 43(a) of the federal Lanham Act.

135. Yahoo's unauthorized use of Plaintiff's name in this manner represents by implication that Plaintiff endorses, sponsors or is otherwise affiliated with these six separate websites playing pornographic videos, all containing computer spyware.

136. Yahoo's unauthorized use of Plaintiff's name is likely to cause confusion or mistake and to deceive consumers as to the endorsement, sponsorship, affiliation, connection or association of Bev Stayart with these six separate pornographic websites, all containing computer spyware.

137. Yahoo has also used the name "Bev Stayart" in a false snippet on its search engine results, repeatedly linking Plaintiff to a website captioned "Free Streaming Porn HOTTEST DAILY PORN" and portraying 27 hard-core pornographic photos of completely naked, masturbating women., without authorization or permission.

138. Yahoo's unauthorized use of Plaintiff's name in this manner constitutes a false endorsement and false designation of origin in violation of Section 43(a) of the federal Lanham Act.

139. Yahoo's unauthorized use of Plaintiff's name in this manner represents by implication that Plaintiff endorses, sponsors or is otherwise affiliated with this website captioned "Free Streaming Porn HOTTEST DAILY PORN,"

140. Yahoo's unauthorized use of Plaintiff's name is likely to cause confusion or mistake and to deceive consumers as to the endorsement, sponsorship, affiliation, connection or association of Bev Stayart with this website captioned "Free Steaming Porn HOTTEST DAILY PORN."

141. As a direct and proximate result of all of Yahoo's wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

142. As discussed above, Yahoo knowingly connected, and, on information and belief, continues to connect Bev Stayart with the sexual dysfunction drugs Cialis®, Viagra® and Levitra® on its search engine results for her. *See*, Paragraph 107.

143. On information and belief, Yahoo's unauthorized use of Plaintiff's name will continue unless and until Yahoo is enjoined. Plaintiff has no adequate remedy at law to prevent Yahoo from continuing to wrongfully violate Plaintiff's rights and Plaintiff will suffer irreparable injury unless Yahoo is enjoined from continuing its described wrongful conduct.

COUNT II

Violation of Statutory Right of Privacy -- Wis. Stats 995.50

(Against Defendant Yahoo)

144. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

145. Plaintiff possesses the exclusive statutory right under Wisconsin law (Wis. Stats. 995.50) to control the use of her name with respect to commercial endorsement and right of privacy.

146. As discussed above, Yahoo knowingly used Plaintiff's name "Bev Stayart" on a false snippet on its search engine results by (1) repeatedly linking Plaintiff to the advertising of Cialis® by an online pharmacy; (2) repeatedly linking Plaintiff to six separate websites playing pornographic videos containing spy ware; and (3) repeatedly

linking Plaintiff to a website captioned “Free Streaming Porn -- HOTTEST DAILY PORN” displaying 27 hard-core pornographic photos.

147. As a direct and proximate result of all of Yahoo’s wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

148. As discussed above, Yahoo knowingly connected, and, on information and belief, continues to connect Bev Stayart with the sexual dysfunction drugs Cialis®, Viagra® and Levitra® on its search engine results for her. *See*, Paragraph 107.

149. On information and belief, Yahoo’s unauthorized use of Plaintiff’s name will continue unless and until Yahoo is enjoined. Plaintiff has no adequate remedy at law to prevent Yahoo from continuing to violate Plaintiff’s rights and Plaintiff will suffer irreparable harm unless Yahoo is enjoined from continuing its wrongful conduct.

150. Yahoo’s violation of Plaintiff’s rights of privacy was intentional, deliberate, and in disregard of her rights. Plaintiff is entitled to recover punitive and/or exemplary damages from Yahoo.

COUNT III

Violation of Common Law Right of Privacy

(Against Defendant Yahoo)

151. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

152. Plaintiff possesses the inherent right at common law to control the use of her name with respect to commercial endorsement and right of privacy.

153. As discussed above, Yahoo knowingly used Plaintiff's name "Bev Stayart" on a false snippet on its search engine results by (1) repeatedly linking Plaintiff to the advertising of Cialis® by an online pharmacy; (2) repeatedly linking Plaintiff to six separate websites playing pornographic videos containing computer spyware; and (3) repeatedly linking Plaintiff to a website captioned "Free Streaming Porn -- HOTTEST DAILY PORN" displaying 27 hard-core pornographic photos.

154. As a direct and proximate result of all of Yahoo's wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

155. As discussed above, Yahoo knowingly connected, and, on information and belief, continues to connect Bev Stayart with the sexual dysfunction drugs Cialis®, Viagra® and Levitra® on its search engine results for her. *See*, Paragraph 107.

156. On information and belief, Yahoo's unauthorized use of Plaintiff's name will continue unless and until Yahoo is enjoined. Plaintiff has no adequate remedy at law to prevent Yahoo from continuing to violate Plaintiff's rights and Plaintiff will suffer irreparable harm unless Yahoo is enjoined from continuing its wrongful conduct.

157. Yahoo's violation of Plaintiff's right of privacy was intentional, deliberate, and in disregard of her rights. Accordingly, Plaintiff is entitled to recover punitive and/or exemplary damages from Yahoo.

COUNT IV

False Endorsement Under the Federal Lanham Act

(Against Defendant Overture)

158. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

159. Plaintiff possesses the inherent right to control the use of her name with respect to commercial endorsement and right of publicity.

160. As discussed above, Overture knowingly used Plaintiff's name "Bev Stayart" on a false snippet on its search engine results by (1) repeatedly linking Plaintiff to the advertising of Cialis® by an online pharmacy; (2) repeatedly linking Plaintiff to six separate websites playing pornographic videos containing spyware; and (3) repeatedly linking Plaintiff to a website captioned "Free Streaming Porn -- HOTTEST DAILY PORN" displaying 27 hard-core pornographic photos.

161. Overture's unauthorized use of Plaintiff's name in this manner constitutes a false endorsement and false designation of origin in violation of Section 43(a) of the federal Lanham Act.

162. Overture's unauthorized use of Plaintiff's name is false and misleading and tends to falsely describe and represent that the sale of Cialis® by an online pharmacy is licensed, sponsored, endorsed or otherwise authorized by Plaintiff.

163. Overture's unauthorized use of Plaintiff's name in this manner in a false snippet on its search engine results also represents by implication that Plaintiff endorses, sponsors or is otherwise affiliated with an online pharmacy selling Cialis®.

164. Overture's unauthorized use of Plaintiff's name is likely to cause confusion or mistake and to deceive consumers as to the endorsement, sponsorship, affiliation, connection or association of Bev Stayart with Cialis® and an online pharmacy selling this drug.

165. Overture's unauthorized use of Plaintiff's name in this manner constitutes a false endorsement and false designation of origin in violation of Section 43(a) of the federal Lanham Act.

166. As a direct and proximate result of all of Overture's wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

167. As discussed above, Overture knowingly connected, and, on information and belief, continues to connect Bev Stayart with the sexual dysfunction drugs Cialis®, Viagra® and Levitra® on its search engine results for her. *See*, Paragraph 108.

168. On information and belief, Overture's unauthorized use of Plaintiff's name will continue unless and until Overture is enjoined. Plaintiff has no adequate remedy at law to prevent Overture from continuing to wrongfully violate Plaintiff's rights and Plaintiff will suffer irreparable injury unless Overture is enjoined from continuing its wrongful conduct.

COUNT V

Violation of Statutory Right of Privacy -- Wis. Stats. 995.50

(Against Defendant Overture)

169. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

170. Plaintiff possesses the exclusive statutory right under Wisconsin law (Wis. Stats. 995.50) to control the use of her name with respect to commercial endorsement and right of privacy.

171. As discussed above, Overture knowingly used the name “Bev Stayart” on a false snippet on its search engine results by (1) repeatedly linking Plaintiff to the advertising of Cialis® by an online pharmacy; (2) repeatedly linking Plaintiff to sex separate websites playing pornographic videos containing spy ware; and (3) repeatedly linking Plaintiff to a website captioned “Free Streaming Porn -- HOTTEST DAILY PORN” displaying 27 hard-core pornographic photos.

172. As a direct and proximate result of Overture’s wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

173. As discussed above, Overture knowingly connected, and, on information and belief, continues to connect “Bev Stayart” with the sexual dysfunction drugs Cialis®, Viagra® and Levitra® on its search engine results for her. *See*, Paragraph 108.

174. On information and belief, Overture’s unauthorized use of Plaintiff’s name will continue unless and until Overture is enjoined. Plaintiff has no adequate remedy at law to prevent Overture from continuing to violate Plaintiff’s rights and Plaintiff will suffer irreparable harm unless Overture is enjoined from continuing its wrongful conduct.

175. Overture’s violation of Plaintiff’s right of privacy was intentional, deliberate, and in disregard of her rights. Accordingly, Plaintiff is entitled to recover punitive and/or exemplary damages from Overture.

COUNT VI

Violation of Common Law Right of Privacy

(Against Defendant Overture)

176. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

177. Plaintiff possesses the inherent right at common law to control the use of her name with respect to commercial endorsement and right of privacy.

178. As discussed above, Overture knowingly used the name “Bev Stayart” on a false snippet on its search engine results by (1) repeatedly linking Plaintiff to the advertising of Cialis® by an online pharmacy; (2) repeatedly linking Plaintiff to six separate websites playing pornographic videos containing spyware; and (3) repeatedly linking Plaintiff to a website captioned “Free Streaming Porn -- HOTTEST DAILY PORN” displaying 27 hard-core pornographic photos.

179. As a direct and proximate result of all of Overture’s wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

180. As discussed above, Overture knowingly connected, and, on information and belief, continues to connect Bev Stayart with the sexual dysfunction drugs Cialis®, Viagra® and Levitra® on its search engine results. *See*, Paragraph 108.

181. On information and belief, Overture’s unauthorized use of Plaintiff’s name will continue unless and until Overture is enjoined. Plaintiff has no adequate remedy at law to prevent Overture from continuing to violate Plaintiff’s rights and Plaintiff will suffer irreparable harm unless Overture is enjoined from continuing its wrongful conduct.

182. Overture's violation of Plaintiff's right of privacy was intentional, deliberate, and in disregard of her rights. Accordingly, Plaintiff is entitled to recover punitive and/or exemplary damages from Overture.

COUNT VII

False Endorsement Under the Federal Lanham Act

(Against Defendant Various)

183. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

184. Plaintiff possesses the inherent right to control the use of her name with respect to commercial endorsement and right of privacy.

185. Various has used the name "Bev Stayart" on a website advertising its adult, online sexually-oriented "dating" service AdultFriendFinder.com without permission or authorization.

186. Various' unauthorized use of Plaintiff's name on this website advertising AdultFriendFinder.com constitutes a false endorsement and false designation of origin in violation of Section 43(a) of the federal Lanham Act.

187. Various' unauthorized use of Plaintiff's name on this website is false and misleading and tends to falsely describe and represent that Various' online adult-oriented social networking services are licensed, sponsored, endorsed or otherwise authorized by Plaintiff.

188. Various' unauthorized use of Plaintiff's name on this website also represents by implication that Plaintiff endorses, sponsors or is otherwise affiliated with AdultFriendFinder.com.

189. Various' unauthorized use of Plaintiff's name is likely to cause confusion or mistake and to deceive consumers as to the endorsement, sponsorship, affiliation, connection or association of Bev Stayart with AdultFriendFinder.com.

190. As a direct and proximate result of Various' wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

191. On information and belief, Various' unauthorized use of Plaintiff's name will continue unless and until Various is enjoined. Plaintiff has no adequate remedy at law to prevent Various from continuing to wrongfully violate Plaintiff's rights and Plaintiff will suffer irreparable harm unless Various is enjoined from continuing its wrongful conduct.

COUNT VIII

Violation of Statutory Right of Privacy -- Wis. Stats. 995.50

(Against Defendant Various)

192. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

193. Plaintiff possesses the exclusive statutory right under Wisconsin law (Wis. Stats 955.50) to control the use of her name with respect to commercial endorsement and right of privacy.

194. As discussed above, Various knowingly used, and on information and belief, continues to use the name “Bev Stayart” on a website advertising its adult, online sexually-oriented “dating” service AdultFriendFinder.com without permission or authorization, thereby violating Plaintiff’s statutory right of privacy.

195. As a direct and proximate result of Various’ wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

196. On information and belief, Various’ unauthorized use of Plaintiff’s name will continue unless and until Various is enjoined. Plaintiff has no adequate remedy at law to prevent Various from continuing to wrongfully violate Plaintiff’s rights and Plaintiff will suffer irreparable harm unless Various is enjoined from continuing its wrongful conduct.

197. Various’ violation of Plaintiff’s rights of publicity was intentional, deliberate, and in disregard of her rights. Accordingly, Plaintiff is entitled to recover punitive and/or exemplary damages from Various.

COUNT IX

Violation of Common Law Right of Privacy

(Against Defendant Various)

198. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

199. Plaintiff possesses the inherent right at common law to control the use of her name with respect to commercial endorsement and right of privacy.

200. As discussed above, Various knowingly used, and on information and belief, continues to use the name “Bev Stayart” on a website advertising its adult, online sexually-oriented “dating” service AdultFriendFinder.com without permission or authorization, thereby violating Plaintiff’s common law right of publicity.

201. As a direct and proximate result of Various’ wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial.

202. Plaintiff has no adequate remedy at law to prevent Various from continuing to wrongfully violate Plaintiff’s rights and Plaintiff will suffer irreparable harm unless Various is enjoined from continuing its wrongful conduct.

203. Various’ violation of Plaintiff’s right of privacy was intentional, deliberate, and in disregard of her rights. Accordingly, Plaintiff is entitled to recover punitive and/or exemplary damages from Various.

WHEREFORE, Bev Stayart prays for judgment against Defendants as follows:

1. For a preliminary and permanent injunction enjoining Defendants, and all persons acting in concert or participation with them, from using, without proper authorization or permission, the name Bev Stayart or Beverly Stayart in connection with advertising and promotion of products and services on the Internet;
2. For compensatory damages in an amount to be proven at trial;
3. For an accounting to determine all gains, profits, gross revenues, savings and advantages obtained by Defendants, directly and indirectly, as a result of their described wrongful actions;
4. For restitution in an amount to be proven at trial;

5. Award Plaintiff an amount sufficient to conduct a corrective advertising campaign to dispel the effects of Defendants' wrongful conduct and confusing and misleading advertising;

6. Direct Defendants to file with this Court and serve on Plaintiff within thirty (30) days after service of the injunction, a report, in writing, under oath, that describes in detail the manner and form in which Defendants have complied with the orders of this Court;

7. Directing Defendants to post on their websites corrective apologies to dispel the effects of Defendants' wrongful conduct in a manner, form and duration to be established by the Court;

8. Award Plaintiff punitive damages in an amount sufficient to deter other future conduct by Defendants and others;

9. For reasonable attorney's fees;

10. For costs; and

11. Granting Plaintiff such other and further relief as the Court may deem just.

DEMAND FOR JURY TRIAL

Plaintiff, Beverly Stayart, hereby demands a trial by jury on all causes of action triable by jury.

BEVERLY STAYART

By: 

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